

**IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA**

Tues day December 19, 2006

PRESENT: Supervisors Harry L. Ovitt, Shirley Bianchi, Jerry Lenthall,
James R. Patterson and Chairperson K.H. 'Katcho' Achadjian
ABSENT: None

RESOLUTION NO. 2006-480

**RESOLUTION REVERSING THE DECISION OF THE
PLANNING COMMISSION AND CONDITIONALLY APPROVING
THE APPLICATION OF DAVID GRAVES
FOR A VESTING TENTATIVE TRACT MAP FOR TRACT 2768**

The following resolution is now offered and read:

WHEREAS, on September 28, 2006, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and disapproved the application of David Graves for a vesting tentative tract map for Tract 2768; and

WHEREAS, David Graves has appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 21 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on December 19, 2006, and determination and decision was made on December 19, 2006; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and determined that the appeal should be upheld and the decision of the Planning Commission should be reversed and that the application should be approved subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

ATTACHMENT 2

3. That the negative declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.

4. That the Board of Supervisors has reviewed and considered the information contained in the negative declaration together with all comments received during the public review process prior to approving the project.

5. That the appeal filed by David Graves is hereby upheld and the decision of the Planning Commission is reversed and that the application of David Graves for a vesting tentative tract map for Tract 2768 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor Ovitt, seconded by Supervisor Lenthall, and on the following roll call vote, to wit:

AYES: Supervisors Ovitt, Lenthall, Bianchi, Chairperson Achadjian

NOES: Supervisor Patterson

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

Richard A. Schach
Chairman of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors

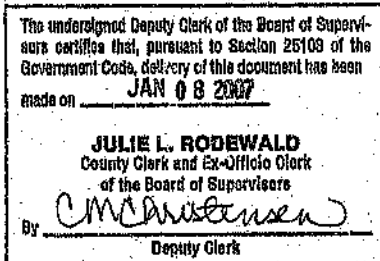
[SEAL] By: CM Christensen Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: [Signature]
Deputy County Counsel

Dated: December 1, 2006



ATTACHMENT 2

STATE OF CALIFORNIA,)
)
County of San Luis Obispo)

ss

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this 5th day of January, 2007.

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the
Board of Supervisors

(SEAL)

By: _____
Deputy Clerk

FINDINGS - EXHIBIT A
TR2768

Environmental Determination

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on August 3, 2006 for this project. Mitigation measures are proposed to address biological resources and noise and are included as conditions of approval.

Tentative Map

- B. The proposed map is consistent with applicable county general and specific plans because it complies with applicable area plan standards and is being subdivided in a consistent manner with the Residential Multi-Family land use category.
- C. The proposed map is consistent with the county zoning and subdivision ordinances because the parcels meet the minimum parcel size set by the Land Use Ordinance and the design standards of the Real Property Division Ordinance.
- D. The design and improvement of the proposed subdivision are consistent with the applicable county general and specific plans because the required improvements will be completed consistent with county ordinance and conditions of approval and the design of the parcels meets applicable policies of the general plan and ordinances.
- E. The site is physically suitable for the type of development proposed because the proposed parcels contain adequate area for development of 9 single-family residences.
- F. The site is physically suitable for the proposed density of the development proposed because the site can adequately support 9 single-family residences.
- G. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because the project has been designed to minimize impacts to native oak trees on the property.
- H. The design of the subdivision or the type of improvement will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.
- I. The proposed map complies with Section 66474.6 of the State Subdivision Map Act, as to methods of handling and discharge of waste.

CONDITIONS - EXHIBIT B
TRACT 2768

Approved Project

1. Vesting Tentative Tract Map to subdivide an existing 2.0 acre parcel into 9 parcels ranging from 6,000 to 10,550 square feet each for the purpose of sale and/or development.

Access and Improvements

2. Roads and/or streets to be constructed to the following standards:
 - a. Martin Road constructed to a modified A-2 (urban) section within a minimum 4-foot wide dedicated right-of-way as shown on the approved Tentative Map, described as follows: curb/gutter/sidewalk on the east side, minimum 20-foot paved traveled way, widening at several locations on the west side for parking bays, and widening at the northeast corner of the site to conform with the existing constructed portion of Martin Road.
 - b. Las Tablas Road widened to complete an A-2 (north ½) section fronting the property. The design to provide for 2 travel lanes, a center turn lane of 11 feet each, 2-4 foot bike lanes, and a 7 feet parking lane on the south side (48 foot o-c).
3. The applicant offer for dedication to the public by certificate on the map or by separate document:
 - a. A 20 foot radius property line return at the intersection of Martin Road and Las Tablas Road.
4. Access be denied to lot 1 from Las Tablas Road and that this be by certificate and designation on the map.
5. All grading shall be done in accordance with Appendix 33 of the Uniform Building Code. All lot lines shall be considered as Site Area Boundaries with signs setback accordingly.

Improvement Plans

6. Improvement plans shall be prepared in accordance with San Luis Obispo County Improvement Standards and Specifications by a Registered Civil Engineer and submitted to the Department of Public Works and the county Health Department for approval. The plan is to include, as applicable:
 - a. Street plan and profile.
 - b. Drainage ditches, culverts, and corner structures (if drainage calculations require).
 - c. Water plan (County Health).
 - d. Sewer plan (County Health).
 - e. Grading and erosion control plan for subdivision related improvement locations.
 - f. Public utility plan, showing all existing utilities and installation of all utilities to serve every lot.

7. The applicant shall enter into an agreement with the county for the cost of checking the map, the improvement plans if any, and the cost of inspection of any such improvements by the county or its designated representative. The applicant shall also provide the county with an Engineer of Work Agreement retaining a Registered Civil Engineer to furnish construction phase services, Record Drawings and to certify the final product to the Department of Public Works.
8. The Registered Civil Engineer, upon completion of the improvements, must certify to the Department of Public Works that the improvements are made in accordance with all conditions of approval, including any related land use permit conditions and the approved improvement plans. All public improvements shall be completed prior to occupancy of any new structure.

Drainage

9. Submit complete drainage calculations to the Department of Public Works for review and approval.
10. If calculations so indicate, drainage must be retained in a drainage basin on the property. The design of the basin is to be approved by the Department of Public Works, in accordance with county standards.
11. If a drainage basin is required, the drainage basin along with rights of ingress and egress be:
 - a. Offered for dedication to the public by certificate on the map with an additional easement reserved in favor of the owners and assigns.
12. The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program.

Utilities

13. Electric and telephone lines shall be installed underground.
14. Cable T.V. conduits shall be installed in the street.
15. Gas lines shall be installed.

Design

16. The applicant shall apply to the Department of Planning and Building for approval of new street names prior to the filing of the final parcel or tract map. Approved street names shall be shown on the final parcel or tract map and on the improvement plans.
17. At the time of application for construction permits, submit architectural elevations and a landscape plan to the Department of Planning and Building for review and approval. The plans shall indicate the following and development shall be consistent with these approved plans:
 - a. The architectural elevations shall be consistent with the applicable residential single family and multi family elements of the Templeton Community Design Plan.
 - b. The landscaping plan shall be consistent with the Templeton Community Design Plan and shall include:
 1. Individual fencing around patios/backyards instead of a continuous perimeter wall.

Fire Protection

18. The applicant shall obtain a fire safety clearance letter from the Templeton Fire Department establishing fire safety requirements prior to filing the final parcel or tract map.

Parks and Recreation (Quilmbv) Fees

19. Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, prior to filing of the final parcel or tract map, the applicant shall pay the in-lieu fee that will be used for community park and recreational purposes as required by Chapter 21.09. The fee shall be based on the nine (9) new parcels shown on the map that do not already have legal residential units on them.

Affordable Housing Fee

20. Prior to filing the final parcel or tract map, the applicant shall pay an affordable housing fee of 3.5 percent of the adopted public facility fee effective at the time of recording for each residential lot. This fee shall not be applicable to any official recognized affordable housing included within the residential project.

Mitigation Measures

21. During construction associated with map improvements, an arborist shall be present on site during any excavation of material under the Critical Root Zone (CRZ) of the existing 72 inch Oak tree (as delineated in the Arborists Report; April 5, 2006) located on the property.
22. Prior to recordation of final map, the applicant shall replace, in kind at a 2:1 ratio all oak trees impacted but not removed as a result of proposed development associated with this project. Replanting shall be completed as soon as it is feasible (e.g. irrigation water is available, grading done in replant area). Replant areas shall be either in native topsoil or areas where native topsoil has been reapplied. If the latter, topsoil shall be carefully removed and stockpiled for spreading over graded areas to be replanted (set aside enough for 6-12" layer).
23. At the time of application for subdivision improvement plans, the applicant shall clearly show on the project plans the type, size, and location of all trees to be impacted as part of the project and all remaining trees within 50 feet of construction activities. The project plans shall also show the type and location of tree protection measures to be employed. All trees to remain on-site that are within fifty feet of construction or grading activities shall be marked for protection (e.g., with flagging) and their root zone fenced prior to any grading. The outer edge of the tree root zone is 1-1/2 times the distance from the trunk to the drip line of the tree. Grading, utility trenching, compaction of soil, or placement of fill shall be avoided within these fenced areas. If grading in the root zone cannot be avoided, retaining walls shall be constructed to minimize cut and fill impacts. Care shall be taken to avoid surface roots within the top 18 inches of soil. If any roots must be removed or exposed, they shall be cleanly cut and not left exposed above the ground surface.
24. Prior to final inspection of subdivision improvements, the applicant shall have completed the following as it relates to weed removal around newly planted vegetation: 1) no herbicides shall have been used; 2) either installation of a securely staked "weed mat" (covering at least a three-foot radius from center of plant), or hand removal of weeds (covering at least a 3' radius from center of plant) shall be completed for each new plant (this hand removal weeding shall be kept up on a regular basis).

25. All oak trees identified to remain shall not be removed. Unless previously approved by the county, the following activities are not allowed within the root zone of existing or newly planted oak trees: year-round irrigation (no summer watering, unless "establishing" new tree or native compatible plant(s) for up to 3 years); grading (includes cutting and filling of material); compaction (e.g., regular use of vehicles); placement of impermeable surfaces (e.g., pavement); disturbance of soil that impacts roots (e.g., tilling).
26. The applicant recognizes that trimming of oaks can be detrimental in the following respects and agrees to minimize trimming of the remaining oaks: removal of larger lower branches should be minimized to 1) avoid making tree top heavy and more susceptible to "blow-overs", 2) reduce having larger limb cuts that take longer to heal and are much more susceptible to disease and infestation, 3) retain the wildlife that is found only in the lower branches, 4) retains shade to keep summer temperatures cooler (retains higher soil moisture, greater passive solar potential, provides better conditions for oak seedling volunteers) and 5) retain the natural shape of the tree. Limit the amount of trimming (roots or canopy) done in anyone season as much as possible to limit tree stress/shock (10% or less is best, 25% maximum). Excessive and careless trimming not only reduces the potential life of the tree, but can also reduce property values if the tree dies prematurely or has an unnatural appearance. If trimming is necessary, the applicant agrees to either use a skilled arborist or apply accepted arborist's techniques when removing limbs. Unless a hazardous or unsafe situation exists, trimming shall be done only during the winter for deciduous species.

Smaller trees (smaller than 5 inches in diameter at four feet above the ground) within the project area are considered to be of high importance, and when possible, shall be given similar consideration as larger trees.
27. To minimize impacts to the sensitive oak woodland understory habitat (e.g. maritime chaparral, coastal scrub), the applicant agrees to the following during construction/tract improvement:
 - a. All native vegetation removal shall be shown on all applicable grading/construction or improvement plans, and reviewed/ approved by the County (Planning and Building Dept.) before any work begins.
 - b. Vegetation removal of native habitat shall be limited to what is shown on the county-approved grading/ construction /improvement plans.
 - c. Vegetation clearance for fire safety purposes shall be limited to the minimum setbacks required by Templeton Fire. Where feasible, all efforts will be made to retain as much of this vegetation within the setback as possible (e.g. remove/trim only enough vegetation to create non-contiguous islands of native vegetation).
28. At the time of application for construction permits, the applicant shall provide certification from an engineer qualified in noise analysis that a noise level of 45 dBA or less can be maintained inside the residence with the windows and doors closed when buildout of Highway 101 is considered. In the event the acceptable noise level is not reached, additional measures shall be installed, as directed by the acoustical expert, to the extent that the acceptable noise level is achieved. The applicant shall provide to the county written verification by the acoustical expert that acceptable levels have been achieved.

Additional Map Sheet

29. The applicant shall prepare an additional map sheet to be approved by the county Department of Planning and Building and the Department of Public Works. The additional map sheet shall be recorded with the final parcel or tract map. The additional map sheet shall include the following:

- a. If a drainage basin is required, that the owner(s) of lot 1 is responsible for ongoing maintenance of drainage basin / adjacent landscaping in a viable condition on a continuing basis into perpetuity.
- b. If improvements are bonded for, all public improvements (roads, drainage, and utilities) shall be completed prior to occupancy of any new structure.
- c. A notice that no construction permits will be given a final inspection until the fire safety conditions established in the letter from the Templeton Fire Department are completed. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection approval of all required fire/life safety measures.

d. Mitigation Measures:

TR-1 During construction associated with construction of future residences on proposed lots 2 and 3, an arborist shall be present on site during any excavation of material under the Critical Root Zone (CRZ) of the existing 72" Oak tree (as delineated in the Arborists Report; April 5, 2006) located on the property.

TR-3 At the time of application for grading permit, the applicant shall clearly show on the project plans the type, size, and location of all trees to be impacted as part of the project and all remaining trees within 50 feet of construction activities. The project plans shall also show the type and location of tree protection measures to be employed. All trees to remain on-site that are within fifty feet of construction or grading activities shall be marked for protection (e.g., with flagging) and their root zone fenced prior to any grading. The outer edge of the tree root zone is 1-1/2 times the distance from the trunk to the drip line of the tree. Grading, utility trenching, compaction of soil, or placement of fill shall be avoided within these fenced areas. If grading in the root zone cannot be avoided, retaining walls shall be constructed to minimize cut and fill impacts. Care shall be taken to avoid surface roots within the top 18 inches of soil. If any roots must be removed or exposed, they shall be cleanly cut and not left exposed above the ground surface.

TR-5 All oak trees identified to remain shall not be removed. Unless previously approved by the county, the following activities are not allowed within the root zone of existing or newly planted oak trees: year-round irrigation (no summer watering, unless "establishing" new tree or native compatible plant(s) for up to 3 years); grading (includes cutting and filling of material); compaction (e.g., regular use of vehicles); placement of impermeable surfaces (e.g., pavement); disturbance of soil that impacts roots (e.g., filling).

TR-6 The applicant recognizes that trimming of oaks can be detrimental in the following respects and agrees to minimize trimming of the remaining oaks: removal of larger lower branches should be minimized to 1) avoid making tree top heavy and more susceptible to "blow-overs", 2) reduce having larger limb cuts that take longer to heal and are much more susceptible to disease and infestation, 3) retain the wildlife that is found only in the lower branches, 4) retains shade to keep summer temperatures cooler (retains higher soil moisture, greater passive solar potential, provides better conditions for oak seedling volunteers) and 5) retain the natural shape of the tree. Limit the amount of trimming (roots or canopy) done in anyone season as much as possible to limit tree stress/shock (10% or less is best, 25% maximum). Excessive and careless trimming not only reduces the potential life of the tree, but can also reduce property values if the tree dies prematurely or has an unnatural appearance. If trimming is necessary, the applicant agrees to either use a skilled arborist or apply accepted arborist's techniques when removing limbs. Unless a hazardous or unsafe situation exists, trimming shall be done only during the winter for deciduous species.

Smaller trees (smaller than 5 inches in diameter at four feet above the ground) within the project area are considered to be of high importance, and when possible, shall be given similar consideration as larger trees.

TR-7 To minimize impacts to the sensitive oak woodland understory habitat (e.g. maritime chaparral, coastal scrub), the applicant agrees to the following during construction of residences and for the life of the project:

All native vegetation removal shall be shown on all applicable grading/construction or improvement plans, and reviewed/ approved by the County (Planning and Building Dept.) before any work begins.

Vegetation removal of native habitat shall be limited to what is shown on the county-approved grading/ construction /improvement plans.

Vegetation clearance for fire safety purposes shall be limited to the minimum setbacks required by Tempeleton Fire. Where feasible, all efforts will be made to retain as much of this vegetation within the setback as possible (e.g. remove/trim only enough vegetation to create non-contiguous islands of native vegetation).

No livestock shall be allowed within the native habitat area.

All allowed uses within the native habitat area shall be "passive", where the use will have either no or minimal impact on the habitat.

NS7 At the time of application for construction permits, the applicant shall provide certification from an engineer qualified in noise analysis that a noise level of 45 dbA or less can be maintained inside the residence with the windows and doors closed when buildout of Highway 101 is considered. In the event the acceptable noise level is not reached, additional measures shall be installed, as directed by the acoustical expert, to the extent that the acceptable noise level is achieved. The applicant shall provide to the county written verification by the acoustical expert that acceptable levels have been achieved.

Covenants, Conditions and Restrictions

30. The developer shall submit proposed covenants, conditions, and restrictions for the subdivision to the county Department of Planning and Building for review and approval. The CC&R's shall provide for the establishment of a Homeowner's Association and shall also include at a minimum the following provisions:

- a. If a drainage basin is required, on-going maintenance of drainage basin / adjacent landscaping in a viable condition on a continuing basis into perpetuity.
- b. To minimize impacts to the sensitive oak woodland understory habitat (e.g. maritime chaparral, coastal scrub), the applicant agrees to the following during construction of residences and for the life of the project:

All native vegetation removal shall be shown on all applicable grading/ construction or improvement plans, and reviewed/ approved by the County (Planning and Building Dept.) before any work begins.

Vegetation removal of native habitat shall be limited to what is shown on the county-approved grading/ construction /improvement plans.

Vegetation clearance for fire safety purposes shall be limited to the minimum setbacks required by CDF Fire. Where feasible, all efforts will be made to retain as much of this vegetation within the setback as possible (e.g. remove/trim only enough vegetation to create non-contiguous islands of native vegetation).

No livestock shall be allowed within the native habitat area.

All allowed uses within the native habitat area shall be "passive", where the use will have either no or minimal impact on the habitat.

- c. Notification to prospective buyers that an additional map sheet was recorded with the final parcel or tract map. The restrictions, conditions and standards set forth in the additional map sheet apply to future development. It is the responsibility of the prospective buyers to read the information contained on the additional map sheet.

Miscellaneous

31. This subdivision is also subject to the standard conditions of approval for all subdivisions using community water and sewer a copy of which is attached hereto and incorporated by reference herein as though set forth in full.

32. All timeframes on approved tentative maps for filing of final parcel or tract maps are measured from the date the Review Authority approves the tentative map, not from any date of possible reconsideration action.

ATTACHMENT 2

STANDARD CONDITIONS OF APPROVAL FOR SUBDIVISIONS USING COMMUNITY WATER AND SEWER

1. Community water and fire protection shall be obtained from the community water system.
2. Operable water facilities from an approved community water source shall be assured prior to the filing of the final map. A "final will serve" letter shall be obtained and submitted to the county Health Department for review and approval stating there are operable water facilities immediately available for connection to the parcels created. Water main extensions, laterals to each parcel and related facilities (except well(s)) may be bonded for subject to the approval of county Public Works, the county Health Department and the public water utility.
3. No residential building permits are to be issued until the community (public) water system is operational with a domestic water supply permit issued by the county Health Officer.
4. In order to protect the public safety and prevent possible groundwater pollution, any abandoned wells on the property shall be destroyed in accordance with the San Luis Obispo County Well Ordinance Chapter 8.40, and county Health Department destruction standards. The applicant is required to obtain a permit from the county Health Department.
5. When a potentially operational or operational auxiliary water supply in the form of an existing well(s) is located on the parcels created and approved community water is proposed to serve the parcels, the community water supply shall be protected from real or potential cross-contamination by means of an approved cross-connection control device installed at the meter or property line service connection prior to occupancy. (Chapter 8.30, San Luis Obispo County Ordinance)
6. Sewer service shall be obtained from the community sewage disposal system.
7. Prior to the filing of the map a "final will serve" letter be obtained and submitted to the county Health for review and approval stating that community sewer system service is immediately available for connection to the parcels created. Sewer main extensions may be bonded for, subject to the approval of county Public Works and sewer district.
8. No residential building permits shall be issued until community sewers are operational and available for connection.
9. An encroachment permit shall be obtained from county Public Works for any work to be done within the county right-of-way.
10. An encroachment permit shall be obtained from the California Department of Transportation for any work to be done on the state highway.
11. Any existing reservoir or drainage swale on the property shall be delineated on the map.

ATTACHMENT 2

12. Prior to submission of the map "checkprints" to county Public Works, the project shall be reviewed by all applicable public utility companies and a letter be obtained indicating required easements.
13. Required public utility easements shall be shown on the map.
14. Approved street names shall be shown on the map.
15. The applicant shall comply with state, county and district laws/ordinances applicable to fire protection and consider increased fire risk to area by the subdivision of land proposed.
16. The developer shall submit a preliminary subdivision guarantee to county Public Works for review prior to the filing of the map.
17. Any private easements on the property shall be shown on the map with recording data.
18. All conditions of approval herein specified, unless otherwise noted, shall be complied with prior to the filing of the map.
19. After approval by the Review Authority, compliance with the preceding conditions will bring the proposed subdivision in conformance with the Subdivision Map Act and county ordinances.
20. A map shall be filed in accordance with Subdivision Map Act and county ordinance prior to sale, lease, or financing of the lots proposed by the subdivision.
21. A tentative map will expire 24 months from the effective date of the approval. Tentative maps may be extended. Written requests with appropriate fees must be submitted to the Planning Department prior to the expiration date. The expiration of tentative maps will terminate all proceedings on the matter.